

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 OR 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): February 22, 2021

Emmaus Life Sciences, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation)

001-35527

(Commission File Number)

87-0419387

(I.R.S. Employer
Identification No.)

21250 Hawthorne Boulevard, Suite 800, Torrance, CA

(Address of principal executive offices)

90503

(Zip Code)

Registrant's telephone number, including area code (310) 214-0065

(Former name or former address, if changed, since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
None		

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement

Effective February 22, 2021, Emmaus Medical, Inc., or Emmaus Medical, an indirect wholly owned subsidiary of Emmaus Life Sciences, Inc. ("we", "our," "us," "Emmaus" or the "company"), entered into a purchase and sale agreement with Prestige Capital Finance, LLC, or Prestige Capital, pursuant to which Emmaus Medical may offer and sell to Prestige Capital from time to time eligible accounts receivable in exchange for Prestige Capital's down payment, or advance, to Emmaus Medical of 70% (subject to increase to 75%) of the face amount of the accounts receivable, subject to a \$7,500,000 cap on advances at any time. The balance of the face amount of the accounts receivable will be reserved by Prestige Capital and paid to Emmaus Medical, less discount fees of Prestige Capital ranging from 2.25% to 7.25% of the face amount, as and when Prestige Capital collects the entire face amount of the accounts receivable. Emmaus Medical's obligations to Prestige Capital under the purchase and sale agreement are secured by a security interest in the accounts receivable and all or substantially all other assets of Emmaus Medical.

In connection with the purchase and sale agreement, we entered into a guaranty in favor of Prestige Capital by which we guarantee Emmaus Medical's obligations under the purchase and sale agreement. We also entered into a separate, unrelated guaranty in favor of the holders of the outstanding Amended and Restated 10% Senior Secured Convertible Debentures of our EMI Holding, Inc. subsidiary in consideration of the holders' agreement to subordinate in favor of Prestige Capital the holders' security interest in our accounts receivable. Our obligations under the respective guaranties are unsecured.

The foregoing description of the material terms of the purchase and sale agreement and the guaranties is not complete and is qualified by reference to the full text of the purchase and sale agreement and the guaranties, copies of which are filed as exhibits hereto and incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant

The information in Item 1.01 of this Report regarding our obligations under the guaranty in favor of the holders of the outstanding Amended and Restated 10% Senior Secured Convertible Debentures of EMI Holding, Inc. is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

The exhibits listed on the accompanying Index to Exhibits are incorporated herein by reference.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: February 22, 2021

EMMAUS LIFE SCIENCES, INC.

By: /s/ YASUSHI NAGASAKI

Name: Yasushi Nagasaki

Title: Interim Chief Financial Officer

INDEX TO EXHIBITS

Exhibit Number	Description
10.1	Purchase and Sale Agreement between Emmaus Medical, Inc. and Prestige Capital Finance, LLC.
10.2	Guaranty dated December 9, 2020 by Emmaus Life Sciences, Inc. in favor of Prestige Capital, Inc.
10.3	Guaranty dated February 1, 2021 by Emmaus Life Sciences, Inc. in favor of the holders of Amended and Restated 10% Senior Secured Convertible Debentures of EMI Holding, Inc.

Prestige Capital Finance, LLC

400 KELBY STREET, 10TH FLOOR, FORT LEE, NEW JERSEY 07024 (201) 944-4455

Purchase and Sale Agreement (“Agreement”)

1. ASSIGNMENT. PRESTIGE CAPITAL FINANCE, LLC (“Prestige”) hereby buys and **EMMAUS MEDICAL, INC. (“Seller”)** hereby sells, transfers and assigns to Prestige all of Seller’s right, title and interest in and to those specific accounts receivable owing to Seller as set forth on the assignment forms provided by Prestige (the “Assignments”) together with all rights of action accrued or to accrue thereon, including without limitation, full power to collect, sue for, compromise, assign or in any other manner enforce collection thereof in Prestige’s name or otherwise. All of Seller’s accounts receivable and contract rights which are presently or at any time hereafter assigned by Seller, and accepted by Prestige, are collectively referred to as (the “Account(s)”).

2. ADVANCE. Upon Prestige’s receipt and acceptance of each Assignment, Prestige shall pay to Seller **SEVENTY percent (70%)** of the face value of the Accounts therein described (the “Down Payment”). The advance rate herein may be increased to **SEVENTY-FIVE percent (75%)** in the event cumulative aggregate amounts collected by Prestige on the Accounts is not less than 87% of the face amount of the Accounts during the initial 90-day period of this Agreement provided there are no outstanding chargebacks or disputes with respect to the Accounts. Notwithstanding anything to the contrary contained in this Agreement, the maximum outstanding balance of Seller to Prestige shall be **\$7,500,000 (“Maximum Advance”)**.

3. RESERVE. Prestige will hold in reserve the difference between the Purchase Price (hereinafter defined) and the Down Payment (the “**Reserve**”) and provided there are no outstanding chargebacks, disputes or defaults under the Agreement and Seller has not ceased operations for 30 or more consecutive days, will pay to Seller, the Reserve, less any sums due Prestige hereunder, four (4) business days from the date on which the Accounts have been collected in good funds and/or charged back. For purposes of this Agreement, the term “**Purchase Price**” shall mean the net face value of Accounts, less; Prestige’s discount fee described in paragraph 4 below, returns, credits, allowances and discounts; and less all other sums charged or chargeable to Seller’s Accounts.

4. DISCOUNT. Prestige’s purchase of the Accounts from Seller shall be at a discount fee which is deducted from the face value of each Account upon collection. The discount fee, which shall be based on the number of days an Account is outstanding from the date of the Down Payment, shall be as follows: If paid within 35 days a discount fee of **2.25%**; if paid within 40 days a discount fee of **3.09%**; if paid within 50 days a discount fee of **3.93%**; if paid within 60 days a discount fee of **4.75%**; if paid within 70 days a discount fee of **5.59%**; if paid within 80 days a discount fee of **6.43%**; if paid within 90 days a discount fee of **7.25%**; **and if paid after 90 days a discount fee of 7.25% plus** an additional 1.5% for each 10-day period thereafter until the Account is paid in full.

5. WARRANTIES, REPRESENTATION AND COVENANTS. As an inducement for Prestige’s entering into this Agreement and with full knowledge that the truth and accuracy of the warranties, representations and covenants in this Agreement are being relied upon by Prestige, instead of the delay of a complete credit investigation, Seller warrants, represents and covenants that:

- (a) Seller is properly licensed and authorized to operate the business as a pharmaceutical company;
- (b) Seller is the sole and absolute owner of the Accounts and has the full legal right to make said sale, assignment and transfer;
- (c) The correct amount of each Account will be set forth on the Assignments;
- (d) Each Account is an accurate and undisputed statement of indebtedness from an account debtor for a sum certain, without offset or counterclaim and which is due and payable in ninety days or less;
- (e) Each Account is an accurate statement of a bona fide sale, delivery and acceptance of merchandise or performance of service by Seller to an account debtor;
- (f) Seller does not own, control or exercise dominion in any way whatsoever, over the business of any account debtor;
- (g) All financial records, statements, books or other documents shown to Prestige by Seller at any time either before or after the signing of this Agreement are true and accurate;
- (h) Seller will not under any circumstance or in any manner whatsoever, interfere with any of Prestige’s rights under this Agreement;
- (i) Except for the security interests on the Collateral created prior to the Effective date, Seller has not and will not, at any time, permit any lien, security interest or encumbrance to be created upon any of its accounts receivable and/or its inventory without the prior written consent of Prestige;

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- (j) Seller will not enter into any agreement for a “Merchant Cash Advance” or similar product without the prior written consent of Prestige;
- (k) There are no outstanding federal or state tax liens recorded against Seller;
- (l) Seller will not change or modify the terms of the Accounts with any account debtor unless Prestige first consents, in writing;
- (m) Seller will notify Prestige, in advance of: any change in Seller’s place of business; Seller having or acquiring more than one place of business; any change in Seller’s chief executive office; and/or any change in the office or offices where Seller’s books and records concerning accounts receivable are kept;
- (n) Seller will notify Prestige, in writing, in advance of any planned temporary or permanent closure or cessation of Seller’s business.
- (o) Seller will notify Prestige, in writing, in advance of any proposed or actual change of the Seller’s identity, legal entity or corporate structure and will promptly notify Prestige upon learning of any change in any account debtor’s identity, legal entity or corporate structure;
- (p) A notification letter from Seller and/or all invoices will state on their face that the Accounts represented thereby have been assigned to Prestige and are to be paid directly to Prestige; and
- (q) No Account shall be on a bill-and-hold, guaranteed sale, sale-and-return, sale on approval, consignment or any other repurchase or right of return basis;

The warranties, representations and covenants contained in this paragraph 5 shall be continuous and be deemed to be renewed each time Seller assigns Accounts to Prestige. Notwithstanding the provisions contained in paragraph 6 of this Agreement, Prestige shall have recourse against the Seller in the event that any of the

warranties, representations and covenants set forth in this paragraph 5 are breached.

6. NO RECOURSE. Prestige shall have no recourse against Seller for Advances made by Prestige if payments are not received solely due to the "Insolvency" of an account debtor within 90 days of invoice date. For purposes of the foregoing, Insolvency shall be deemed to have occurred only when: (a) a voluntary or involuntary bankruptcy proceeding for the relief of an account debtor under either Chapter 7 or Chapter 11 shall have been instituted in a United States Bankruptcy Court; (b) a receiver is appointed for the whole or any part of the property of an account debtor; (c) an account debtor's assets shall have been sold under a writ of execution or attachments, or a writ of execution shall have been returned unsatisfied; (d) an account debtor shall have absconded; or (e) an account debtor's assets shall have been sold under levy by any taxing authority or by a landlord.

7. CHARGE-BACK. In the event that any Account is not paid within 90 days of invoice date for any reason whatsoever (other than as a result of an account debtor's Insolvency), including, without limitation, any alleged defense, counterclaim, offset, dispute or other claim (real or merely asserted) whether arising from or relating to the sale of goods or rendition of services or arising from or relating to any other transaction or occurrence, then in any such event Prestige shall have the right to chargeback such Account to Seller. Seller acknowledges that all amounts chargeable to Seller's account under this Agreement shall be payable by Seller on demand. Upon satisfaction of a chargeback of an Account and provided there are no other outstanding chargebacks or defaults at such time, Prestige shall assign all of its title, rights and interests in and to such Account to Seller.

8. NOTICE OF DISPUTE. Seller will promptly notify Prestige of any disputes between any account debtor and Seller.

9. SETTLEMENT OF DISPUTE. Upon 10 days' notice to Seller, Prestige may, at its option, settle any dispute with any account debtor. Such settlement does not relieve Seller of any of its obligations under this Agreement.

10. SOLE PROPERTY. Once Prestige has purchased the Accounts, the payment from account debtors relative to the Accounts is the sole property of Prestige. Any interference by Seller with this payment may result in civil and/or criminal liability.

11. SECURITY INTEREST. As a further inducement for Prestige to enter into this Agreement, and as security for the prompt performance, observance and payment of all obligations owing by Seller to Prestige, Seller hereby grants to Prestige a continuing security interest in and lien upon the following (herein collectively referred to as the "Collateral"): all accounts, inventory, machinery and equipment, instruments, documents, chattel paper and general intangibles (as such terms are defined in the Uniform Commercial Code), whether now owned or hereafter created or acquired by Seller, wherever located, and all replacements and substitutions therefore, accessions thereto, and products and proceeds thereof, and all property of Seller at any time in Prestige's possession. Notwithstanding the foregoing, Prestige shall have a first security interest only in Seller's accounts receivable in accordance with subordination agreements to be executed by Prestige and existing secured party(s) prior to closing.

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12. FINANCING STATEMENTS. Seller will, at its expense perform all acts and execute all documents requested by Prestige at any time to evidence, perfect, maintain and enforce Prestige's security interest and other rights in the Collateral and the priority thereof.

13. HOLD IN TRUST. Seller will hold in trust and safekeeping, as the property of Prestige and immediately turnover to Prestige, the original check or other form of payment received by Seller if payment on the Accounts comes into Seller's possession. Should Seller come into possession of a check comprising payments owing to both Seller and Prestige, Seller shall turnover said check to Prestige. In the event Seller receives a payment, in the form of a check, for an Account and it is improperly deposited into Seller's bank account or in the event Seller fails to turnover to Prestige a wire transfer or ACH payment it receives from an Account within two business days of receipt, then Prestige reserves the right to impose liquidated damages upon Seller of up to 20% of the amount of any payment so improperly retained. Notwithstanding the foregoing, with respect to the improperly deposited checks, Prestige agrees to waive the aforementioned charge on the first two (2) occasions provided that on such occasions Seller remits, in full, the improperly deposited funds to Prestige within 48 hours of receipt.

14. FINANCIAL RECORDS. Seller will furnish to Prestige financial statements and such other information as is, from time to time, reasonably requested by Prestige.

15. BOOK ENTRY. Seller will immediately, upon the sale of the Accounts, make the proper entry on its books and records disclosing the absolute sale of the Accounts to Prestige.

16. POWER OF ATTORNEY. In order to implement this Agreement, Seller irrevocably appoints Prestige its special attorney in fact or agent with power to:

- (a) Strike out Seller's address on any correspondence to any account debtor and put on Prestige's address;
- (b) Receive and open all mail addressed to Seller via Prestige's address;
- (c) Endorse the name of Seller or Seller's trade name on any checks or other evidences of payment that may come into the possession of Prestige in connection with the Accounts;
- (d) In Seller's name, or otherwise, demand, sue for, collect any and all monies due in connection with the Accounts; and
- (e) Compromise, prosecute or defend any action, claim or proceeding relative to the Accounts;

The authority granted to Prestige shall remain in full force and effect until the Accounts are paid in full and the entire indebtedness of Seller to Prestige is discharged.

17. ADDITIONAL NOTIFICATION; VERIFICATION OF ACCOUNTS

- (a) Without in any way limiting the terms and provisions of paragraph 5 (p) hereinabove, Prestige may, upon default by Seller and in its sole discretion, notify any account debtor to make payment on any of Seller's open invoices to Prestige; and Prestige, or any of its agents, may at any time verify the Accounts by any reasonable means deemed appropriate by Prestige.

18. NO ASSUMPTION. Nothing contained in this Agreement shall be deemed to impose any duty or obligation upon Prestige in favor of any account debtor and/or any other third party in connection with the Accounts.

19. FUTURE ASSIGNMENTS. Seller may from time to time, at Seller's option, sell, transfer and assign different Accounts to Prestige. The future sale of any Accounts shall be subject to and governed by this Agreement and such Accounts shall be identified by separate and subsequent Assignments.

20. DISCRETION. Nothing contained in this Agreement shall be construed to impose any obligation upon Prestige to purchase Accounts from Seller. Prestige shall at its sole discretion determine which Accounts it shall purchase. Further, Prestige shall have the absolute right at any time to cease accepting any further Assignments from Seller.

21. LEGAL FEES; EXPENSES. Seller will pay on demand any and all collection expenses and reasonable outside legal counsel's fees that Prestige incurs in the event it should become necessary for Prestige to enforce its rights under this Agreement. In addition, once the Agreement becomes effective, Seller will pay on demand all costs and expenses incurred by Prestige in any way relating to the transactions contemplated by this Agreement, including, without limitation, all reasonable attorneys' fees, Federal Express costs (or similar expenses), wire transfer costs, certified mail costs, lien search costs and dedicated lockbox fees.

22. BINDING ON FUTURE PARTIES. This Agreement shall inure to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto, except that Seller may not assign or transfer any or all of its rights and obligations under this Agreement to any party without the prior written consent of

23. **WAIVER; ENTIRE AGREEMENT.** No failure or delay on Prestige’s part in exercising any right, power or remedy granted to Prestige herein, will constitute or operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right set forth herein. This Agreement contains the entire agreement and understanding of the parties hereto and no amendment, modification or waiver of, or consent with respect to, any provision of this Agreement, will in any event be effective unless the same is in writing and signed and delivered by Prestige.

24. **NEW JERSEY LAW.** This Agreement shall be deemed executed in the State of New Jersey and, in all respects shall be governed and construed in accordance with the laws of the State of New Jersey. Each of the parties to this Agreement hereby submits to the non-exclusive jurisdiction of the US District Court of New Jersey and in any New Jersey State Court sitting in Bergen County, New Jersey.

25. **INDEMNITY.** Seller shall hold Prestige harmless from and against any action or other proceeding brought by any account debtor against Prestige arising from Prestige’s collecting or attempting to collect any of the Accounts, unless such action or proceeding is due to the gross negligence, willful misconduct, recklessness or intentionally tortious acts of Prestige.

26. **CURRENCY.** All dollar amounts referred to in this Agreement are stated in the lawful currency of the United States of America (the “Original Currency”). Seller and all account debtors will make payment relative to all amounts owing under this Agreement in the Original Currency. If a payment is made to Prestige in a currency (the “Other Currency”) other than the Original Currency, such payment will constitute a discharge of the liability of the payor only to the extent of the amount of the Original Currency it receives on the date of receipt. If the amount of the Original Currency which Prestige is able to purchase is less than the amount of such currency originally due to it, Seller will indemnify and save Prestige harmless from and against any loss or damage arising as a result of such deficiency.

27. **TERM.** This Agreement will remain in effect for one year from the date that this Agreement becomes effective (the “Term”). Thereafter, the Term will be automatically extended for successive periods of one (1) year each unless either party provides the other with a written notice of cancellation of at least sixty (60) days prior to the expiration of the initial Term or any renewal Term; provided, however, Prestige may cancel this Agreement at any time upon sixty (60) days’ notice to Seller. In the event of a breach by Seller of any term or provision of this Agreement or upon Seller’s insolvency or the insolvency of any guarantor of Seller’s obligations herein, Prestige shall have the right to cancel this Agreement without notice to Seller, and all of Seller’s obligations to Prestige herein shall be immediately due and payable. In the event of cancellation, the provisions of this Agreement shall remain in full force and effect until all of the Accounts and all of Sellers obligations to Prestige have been paid in full Within ten (10) days following cancellation of this Agreement and the satisfaction of all of Seller’s obligations to Prestige as aforesaid, Prestige will, at its expense perform all acts and execute all documents requested by Seller to terminate Prestige’s security interest and other rights in the Collateral.

28. **EARLY TERMINATION.** In the event that Seller wishes to terminate the Agreement prior to the expiration of the Term, then in addition to paying Prestige all other obligations due under this Agreement, Seller shall also pay Prestige an early termination fee equal to **\$25,000** per month for each month remaining under the Term.

29. **INVALID PROVISIONS.** If any provision of this Agreement shall be declared illegal or contrary to law, it is agreed that such provision shall be disregarded and this Agreement shall continue in force as though said provision had not been incorporated herein.

30. **EFFECTIVE.** This Agreement shall become effective when it is accepted and executed by an authorized officer of Prestige. Facsimile machine or PDF copies of an original signature by either party on this Agreement shall be binding as if said copies were original signatures.

*** INTENTIONALLY LEFT BLANK ***

31. **JURY WAIVER.** The parties hereto hereby mutually waive trial by jury in the event of any litigation with respect to any matter connected with this Agreement.

Accepted:

EMMAUS MEDICAL, INC.

PRESTIGE CAPITAL FINANCE, LLC

By: /s/ Yutaka Niihara
YUTAKA NIIHARA, CHAIRMAN & CEO

By: /s/ Alan R. Eliasof
ALAN R. ELIASOF, CEO

This 22nd day of December, 2020

This 22nd day of February, 2021

In consideration of the foregoing Agreement, each of the undersigned hereby personally agrees to be jointly and severally liable for any damages suffered by Prestige Capital Finance, LLC by virtue of the breach of any warranty, representation or covenant made by Seller in paragraph 5 above.

Date: 12/22/20

By: /s/ Yutaka Niihara
YUTAKA NIIHARA, Individually

On this _____ day of _____ in the year _____ before me, the undersigned, a notary public in and for the said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me, he/she/they executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public (Signature) Notary- Print Name State: _____
Commission Expires: _____

Date: 12/22/20

By: /s/ Willis C. Lee
WILLIS C. LEE, Individually

On this _____ day of _____ in the year _____ before me, the undersigned, a notary public in and for the said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the

within instrument and acknowledged to me, he/she/they executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public (Signature)

Notary- Print Name

State: _____
Commission Expires: _____

GUARANTY

DATE: December 9, 2020

Prestige Capital Finance, LLC
 400 Kelby Street
 10th Floor
 Fort Lee, New Jersey 07024

To induce Prestige Capital Finance, LLC ("Prestige") to make advances or other financial accommodations to **Emmaus Medical, Inc.** ("Client"), now or in the future, and with full knowledge that said advances or other financial accommodations would not be made without this Guaranty, the undersigned (sometimes "Guarantor") agrees as follows:

The undersigned guarantees full, prompt and unconditional payment when due of each and every Liability of the Client to Prestige, now existing or hereafter incurred, whether direct or indirect, contingent or absolute, joint or several, matured or unmatured and the full, prompt, and unconditional performance of every term and condition of any transaction to be kept and performed by the Client. This Guaranty is a primary obligation of the undersigned and shall be a continuing inexhaustible Guaranty without limitation as to the amount or duration and may not be revoked except by notice in writing to Prestige and received by Prestige at least ninety (90) days prior to the date set for such revocation. No such notice shall affect the liability under this Guaranty for any such loan or advance or other financial accommodations to the Client occurring prior to the date set for revocation whether made after notice or revocation or not.

The term "Liability of the Client" shall include all liabilities, direct or indirect, absolute or contingent, joint or several, now or hereafter existing, due or to become due to, or held or to be held by Prestige for its own account or as agent for others, whether created directly or acquired by assignment or otherwise. In the event that Client is a partnership, the term "Liability of the Client" as used herein shall include all liabilities of any successor partnership or partnerships of the Client, direct or contingent, joint or several, now or hereafter existing, due or to become due to, or held or to be held by, Prestige, whether created directly or acquired by assignment or otherwise.

Without incurring responsibility to the undersigned and without impairing or releasing the obligations of the undersigned hereunder, Prestige may at any time and from time to time (whether or not after revocation or termination of this Guaranty) without the consent of, or notice to the undersigned, upon any terms or conditions and in whole or in part:

1. change the manner, place or terms of payment, and/or change or extend the time for payment or renew or alter, any Liability of the Client or any security therefor, and the Guaranty herein made shall apply to the Liability of the Client as so changed, extended, renewed or altered;
2. sell, exchange, release, surrender, realize upon or otherwise deal with in any manner and in any order any property by whomsoever at any time pledged, mortgaged or in which a security interest is given to secure, or howsoever securing, the Liability of the Client, as permitted by the documents between the Client and Prestige or by applicable law;

Guaranty –Emmaus Life Sciences, Inc. for Emmaus Medical, Inc.

December 9, 2020

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3. exercise or refrain from exercising any rights against the Client or others (including the undersigned) or against the security, or otherwise act or refrain from acting;
4. settle or compromise any Liability of the Client, dispose of any security therefor, with or without consideration, or any liability incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any Liability (whether due or not) of the Client to creditors of the Client other than Prestige and the undersigned; and
5. apply any sums by whomsoever paid or howsoever realized to any Liability of the Client.

No invalidity, irregularity or unenforceability of all or any part of the Liability of the Client or the impairment or loss of any security therefor, whether caused by any actions or inactions of Prestige, or otherwise, shall affect, impair or be a defense to this Guaranty.

Guarantor hereby waives any right of subrogation to any security and will not exercise any rights which it may acquire by way of subrogation under this Guaranty, by any payment made hereunder or otherwise, until all of the Liability of the Client to Prestige shall have been paid in full. If any amount shall be paid to a Guarantor on account of such subrogation rights at any time when all the Liability of the Client shall not have been paid and performed in full, such amount shall be held in trust for the benefit of Prestige and shall be paid to Prestige to be credited and applied upon the Liability of the Client, whether matured or unmatured. Guarantor hereby waives any and all suretyship defenses.

Any and all rights and claims of the undersigned against the Client or any of its property, arising by reason of any payment by the undersigned to Prestige pursuant to the provisions of this Guaranty, shall be subordinate and subject in right of payment to the prior payment in full of all Liability of the Client. Guarantor hereby agrees that all indebtedness owing from the Client to the Guarantor, whether now existing or in the future created, shall be subordinate to the payment of the Liability of the Client to Prestige and agree further that should the Client default with respect to the Liability of the Client, no such indebtedness owing from the Client to the Guarantor shall be paid, and no security therefor received, until all the Liability of the Client have been paid in full. Any instrument evidencing any such indebtedness owing from the Client to Guarantor, and any payment, security or other property received by Guarantor in violation of this provision, shall be held in trust for the benefit of Prestige and shall be delivered immediately upon receipt by Guarantor to Prestige to apply to the Liability of the Client whether matured or unmatured.

Upon the happening of any of the following events: the failure of Client to pay when due any Liability of the Client; the death or insolvency of the Client or any person (including the undersigned) who is liable directly or indirectly in respect of any of the Liability of the Client; or an adverse change in the financial condition of the Client or any aforesaid person; or suspension of business of the Client or any aforesaid person; or the issuance of any warrant, process or order of attachment, garnishment or other lien and/or the filing of a lien as a result thereof against any of the property of the Client or any aforesaid person; or the making by the Client or any aforesaid person of an Assignment for the Benefit of Creditors; or a Custodian, Trustee or Receiver being appointed for the Client or any aforesaid person or for any property of any of them; or any proceeding being commenced by or against the Client or any aforesaid person under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt, receivership, liquidation or dissolution law or statute; or if an Order for Relief as to the Client or any aforesaid person is entered under the Bankruptcy Code; or if the Client or any aforesaid person is generally not paying their debts as they become due; or any representation in any financial or other statement of the Client or any aforesaid person, delivered to Prestige by or in behalf of the Client or such person, is untrue or incomplete; then and in such event, and at any time thereafter, Prestige may, without notice to the Client or any aforesaid person, make the Liability of the Client immediately due and payable hereunder as to the undersigned, and Prestige shall be entitled to enforce the obligations of the undersigned hereunder.

Guaranty –Emmaus Life Sciences, Inc. for Emmaus Medical, Inc.

December 9, 2020

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The undersigned shall pay all costs and expenses of every kind for collection or enforcement of Prestige's remedies hereunder, including reasonable attorneys' fees and expenses.

If claim is ever made upon Prestige for repayment or recovery of any amount or amounts received by Prestige in payment or on account of any of the Liability of the Client and Prestige repays all or part of said amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over Prestige or any of its property, or (b) any settlement or compromise of any such claim effected by Prestige with any such claimant (including the Client), then, and in such event, the undersigned agree that any such judgment, decree, order settlement or compromise shall be binding upon the undersigned, notwithstanding any revocation hereof or the cancellation of any note or other instrument evidencing any Liability of the Client, and the undersigned shall be and remain jointly and severally liable to Prestige hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by Prestige.

Settlement of any claim by Prestige against any account debtor of the Client, whether in any proceedings or not, and whether voluntary or involuntary, shall not reduce the amount due under the terms of this Guaranty.

All rights, powers and remedies of Prestige hereunder and under any agreement between the Client or Guarantor and Prestige, now, or at any time hereafter in force, shall be cumulative and not alternative, and shall be in addition to all rights, powers and remedies given to Prestige by law. The Guarantor's liability hereunder shall be joint and several.

If any term or provision of this Guaranty is at any time held to be invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining terms and provisions of this Guaranty, which shall continue to be in full force and effect.

No delay on the part of Prestige in exercising any of its options, powers or rights or partial or single exercise thereof, shall constitute a waiver thereof. No waiver of any of its rights hereunder, and no modification or amendment of this Guaranty, shall be deemed to be made by Prestige unless the same shall be in writing, duly signed on behalf of Prestige, by a duly authorized officer, and each such waiver, if any, shall apply only with respect to the specific instance involved, and shall in no way impair the rights of Prestige or the obligations of the undersigned to Prestige in any other respect at any other time.

Guarantor hereby irrevocably consents to the nonexclusive jurisdiction of the Courts of the State of New Jersey or any Federal court in such State in connection with any action or proceeding arising out of or related to this Guaranty. In such litigation, Guarantor waives personal service of any summons, complaint or other process and agree that service may be made by certified or registered mail, return receipt requested. IN ANY LITIGATION RELATING TO THIS GUARANTY, PRESTIGE AND GUARANTOR HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY AND ACKNOWLEDGE THAT THEY HAVE CONSULTED WITH THEIR RESPECTIVE COUNSEL SPECIFICALLY ON THE RAMIFICATIONS OF WAIVING THE RIGHT TO REQUEST TRIAL BY JURY.

The undersigned waive notice of acceptance of this Guaranty and notice of any Liability of the Client to which it may apply and waive notice of default, non-payment, partial payment, presentment, demand, protest, notice of protest or dishonor and all other notices to which Guarantor might otherwise be entitled, or which might be required by law and required to be given by Prestige.

Facsimile machine or PDF copies of an original signature by either party on this Agreement shall be binding as if said copies were original signatures.

This Agreement of Guaranty shall be binding upon the undersigned Guarantor, his or its heirs, executors, administrators, successors and assigns and shall enure to the benefit of Prestige, its successors and assigns.

EMMAUS LIFE SCIENCES, INC.

By: /s/ Yutaka Niihara
(Signature)
Yutaka Niihara, M.D., M.P.H
(Print Name)
Chairman and Chief Executive Officer
(Title)

State: _____

County of _____

Address: 21250 Hawthorne Boulevard
(Street)
Torrance, CA 91503
(City/State/Zip)
310-214-0065
(Phone Number)

(Email Address)

On this _____ day of _____ in the year _____ before me, the undersigned, a notary public in and for the said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me, he/she/they executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public (Signature) Notary- Print Name State: _____
Commission Expires: _____

GUARANTY

Emmaus Life Sciences, Inc., a Delaware corporation (“Guarantor”), as direct or indirect parent corporation of EMI Holding, Inc., a Delaware corporation (the “Company”), does hereby unconditionally and irrevocably guarantee to each of the holders (each, a “Holder” and collectively, the “Holders”) of the Company’s Amended and Restated 10% Senior Secured Convertible Debentures Due April 21, 2021, as amended by the Allonge Amendments No. 1 thereto and as further amended from time to time as provided therein (as so amended, the “Debentures”), the timely and complete discharge and payment of all obligations and liabilities (the “Guaranteed Obligations”) of the Company arising on or after the date hereof as and when due under the terms of the Debentures. Guarantor agrees that Guarantor’s obligations under this Guaranty shall be joint and several with any other persons or entities which may at any time or from time to time be or become directly or indirectly liable to a Holder or the Holders with respect to all or any part of the Guaranteed Obligations.

Subject to the terms of this Guaranty (including the provisions regarding the indefeasible payment of the Guaranteed Obligations), this Guaranty shall terminate as to a Holder upon the payment in full of the Guaranteed Obligations owed to such Holder.

Nothing herein contained shall affect, impair, diminish or qualify any of the rights or remedies of a Holder or the Holders under the Debentures or the “Purchase Agreement” (as defined therein) or the other “Transaction Documents” (as defined in such Purchase Agreement”). The Debentures, together with such Purchase Agreement and other Transaction Documents are collectively referred to herein as the “Transaction Documents”). A separate action or actions may be brought and prosecuted by any Holder or the Holders against Guarantor hereunder, whether or not an action is brought against the Company or any other party thereto under the Transaction Documents, and whether or not the Company or any other such party is joined in any action against Guarantor. Nothing contained herein shall be deemed or construed to obligate a Holder or the Holders to pursue or exhaust their remedies against any person, party or collateral (including, without limitation, the Company or any “Subsidiary Guarantor” (as defined in the Transaction Documents and herein, “Subsidiary Guarantor”) prior to enforcing its or their rights under this Guaranty.

This Guaranty (a) is an absolute, unconditional, and continuing guaranty of payment and performance, and not of collection, which shall remain in full force and effect without respect to future changes in conditions; and (b) shall be valid, irrespective of the validity, regularity or enforceability of any instrument, writing or agreement relating to the Transaction Documents or the Guaranteed Obligations, whether or not the Guaranteed Obligations are due or to become due before or after any bankruptcy or insolvency proceeding.

To the maximum extent permitted by law, Guarantor hereby waives: (1) notice of acceptance hereof; (2) notice of the creation or existence of any Guaranteed Obligations; (3) notice of the amount of the Guaranteed Obligations; (4) notice of any adverse change in the financial condition of the Company or of any other fact that might increase the Guarantor’s risk hereunder; and (5) all other notices and demands to which the Guarantor might otherwise be entitled as a surety or guarantor of the Guaranteed Obligations. To the maximum extent permitted by law, Guarantor hereby waives the right by statute or otherwise to require a Holder or the Holders to institute suit against the Company, any Subsidiary or any third party or to exhaust any rights and remedies which a Holder or Holders has or may have against the Company, any Subsidiary Guarantor or any third party. In this regard, Guarantor agrees that it is bound to the payment of all Guaranteed Obligations, whether now existing or hereafter accruing, as fully as if such Guaranteed Obligations were directly owing to a Holder or the Holders by the Guarantor. Guarantor further waives any defense arising by reason of any disability or other defense of the Company (other than the defense that the Guaranteed Obligations shall have been fully and finally performed and indefeasibly paid) or by reason of the cessation from any cause whatsoever of the liability of the Company in respect thereof.

To the maximum extent permitted by law, Guarantor hereby waives any right of subrogation the Guarantor has or may have as against the Company with respect to the Guaranteed Obligations until the Guaranteed Obligations are fully paid and finally discharged. In addition, Guarantor hereby waives any right to proceed against the Company for contribution, indemnity, reimbursement, and any other suretyship rights and claims, whether direct or indirect, liquidated or contingent, whether arising under express or implied contract or by operation of law, which Guarantor may now have or hereafter have as against the Company with respect to the Guaranteed Obligations until the Guaranteed Obligations are fully paid and finally discharged. Guarantor hereby also waives any rights to recourse to or with respect to any asset of the Company or any Subsidiary Guarantor until the Guaranteed Obligations are fully paid and finally discharged.

Guarantor consents and agrees that, without notice to or by Guarantor, and without affecting or impairing the obligations of Guarantor hereunder, a Holder or the Holders may, by action or inaction: (a) compromise, settle, extend the duration or the time for the payment of, or discharge the performance of, or may refuse to or otherwise not enforce, the Debentures or other Transaction Documents; (b) amend or modify in any manner and at any time (or from time to time) the Debenture or other Transaction Documents; or (c) release or substitute any other guarantor, if any, of the Guaranteed Obligations, or enforce, exchange, release, or waive any security for the Guaranteed Obligations or any other guaranty of the Guaranteed Obligations or any portion thereof.

The Guaranteed Obligations shall not be considered indefeasibly paid for purposes of this Guaranty unless and until all payments to the Holders are no longer subject to any right on the part of any person including, without limitation, EMI as a debtor in possession, or any trustee (whether appointed under the Bankruptcy Code or otherwise) of EMI’s assets to invalidate or set aside such payments or to seek to recoup the amount of such payments or any portion thereof, or to declare same to be fraudulent or preferential. In the event that, for any reason, any portion of such payments to the Holders is set aside or restored, whether voluntarily or involuntarily, after the making thereof, then the obligation intended to be satisfied thereby shall be revived and continued in full force and effect as if said payment or payments had not been made, and Guarantor shall be liable for the full amount the Holders are required to repay plus any and all costs and expenses (including reasonable attorneys’ fees) paid by the Holders in connection therewith.

All payments to be made hereunder by Guarantor shall be made in lawful money of the United States of America at the time of payment, shall be made in immediately available funds, and shall be made without deduction (whether for taxes or otherwise) or offset. All payments made by Guarantor hereunder shall be applied as follows: first, to all costs and expenses (including reasonable attorneys’ fees) incurred by the Holders in enforcing this Guaranty; second, to all accrued and unpaid interest, if any, constituting Guaranteed Obligations; and third, to the balance of the Guaranteed Obligations.

This Guaranty shall be binding upon Guarantor, and its successors and assigns and inure to the benefit of the Holders and its respective successors and assigns. This Guaranty constitutes the entire agreement between the parties relating to the subject matter hereof and is the final and complete expressions of their intent. This Guaranty can only be changed, modified, waived or discharged if consented to in a writing duly signed and delivered by the Holders.

This Guaranty shall be governed by and construed in accordance with the laws of the State of California, without application of conflict of law provisions applicable therein.

IN WITNESS WHEREOF, the undersigned has executed this Guaranty as of the date set forth below.

Dated: February 1, 2021

By: /s/ Yutaka Niihara

Name: Yutaka Niihara, M.D., M.P.H.

Title: Chairman and Chief Executive Officer